

DRAFT

**Order 34-19-02**



**Order of the Architect of the Capitol**

Subject: Architect of the Capitol Procurement Manual Order 34-19-02, Small Business Set-Asides

Architect of the Capitol Procurement Manual Chapter 34-19-02, Small Business Set-Asides, contains the procedures for the use of small business set-asides for the award of procurements of \$100,000 or less and is effective upon the date signed by the Architect.

---

STEPHEN T. AYERS, AIA  
Chief Operating Officer

**AOC PROCUREMENT MANUAL**  
**Small Business Set-Asides**

**Chapter 34-19**

**CONTENTS**

**Subchapter 2 Small Business Set-Asides**

**1. PURPOSE**

- a. This order provides the policies and procedures for the use of small business set-asides for small purchases of \$100,000 or less for the procurement of supplies and services. For the purposes of this order, "services" shall include construction unless specifically noted otherwise.
- b. This order does not apply to transfers of funds or payments to other government agencies, AOC indefinite-delivery contracts, Federal agencies' Government-wide indefinite-delivery contracts (GWACs), multi-agency contracts, and Federal Supply Schedule (FSS) contracts if ordering procedures are established in those contracts.

**2. AUTHORITY**

41 U.S.C. 5 (R.S. 3709), as amended by Public Law 107-068, provides the Architect of the Capitol the authority, within appropriated and available funds, to acquire supplies and services up to and including \$100,000 using small purchase procedures without prior advertising. Utilizing its procurement authority for small purchases, the Architect of the Capitol has the discretion to determine the manner in which small purchase procedures are conducted and determined that this authority permits the use of small business set-asides for those requirements that utilize small purchase procedures, including purchase card transactions.

**3. DEFINITIONS**

- a. "Small business set-aside" means a procurement that permits the participation of only small business concerns.
- b. See AOC Order 34-19-01, Small Business Preference Programs, Federal Acquisition Regulations, and 13 CFR Parts 121, 124, 125, and 126 for other procurement and small business definitions used in this AOC Order.

- c. For the purposes of this order, “contracting officer” shall include AOC purchase cardholders, purchasing agents, contract specialists, and any other individual employed by the AOC who has a delegation of contracting authority.

#### **4. POLICY**

- a. All small purchases exceeding \$5,000 but \$100,000 or less that are not sole source shall be set-aside for small business concerns unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery.
- b. Procurements of \$5,000 or less are not available for competition and, therefore, the requirement of obtaining two or more offers from small business concerns is not applicable. However, contracting officers shall direct small purchases of \$5,000 or less to small business concerns to the maximum extent practicable. Contracting officers shall make reasonable efforts to identify and use small disadvantaged business, women-owned small business, veteran-owned small business, and service-disabled veteran-owned small business concerns for these procurements.

#### **5. PROCEDURES FOR SMALL BUSINESS SET-ASIDES**

- a. Small purchases exceeding \$5,000 but \$100,000 or less shall be automatically set-aside for small business concerns unless one of the following exceptions applies –
  - (1) The requirement is a sole source procurement in which only one source can provide the supplies or services and a sole source justification is provided;
  - (2) Market research has been conducted and strongly indicates that there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices (see AOC Order 34-13-01, Small Business Preference Programs, paragraph 9), quality, and delivery; or
  - (3) A market survey was conducted and no small business concerns were determined to possess the requisite capabilities.
- b. Requisitioners and contracting officers shall afford small business concerns the maximum practicable opportunity to participate in AOC procurements by structuring their requirements so that --
  - (1) Delivery schedules are established on a realistic basis that will encourage

small business participation to the extent consistent with the actual requirements of the Government;

- (2) The maximum amount of time practicable for the submission of offers is allowed; and
  - (3) Specifications, plans, and drawings with solicitations, or information as to where they may be obtained or examined, are furnished to all small business concerns expressing an interest.
- c. AOC Form 1901, Small Business Program Review, is required when one of the exceptions in 5.a.(1) is believed applicable. Instructions for AOC Form 1901, Small Business Program Review, can be found in AOC Order 34-19-01, Small Business Preference Programs, paragraph 7.c.
- d. Procurements exceeding \$25,000 for supplies, components, equipment, and other manufactured items that use small business set-asides are subject to the nonmanufacturer rule. See AOC Order 34-19-01, Small Business Preference Programs, paragraph 11.
- e. Each written Request for Quotation shall contain the applicable North American Industry Classification System (NAICS) code and the related size standard. See AOC Order 34-19-01, Small Business Preference Programs, paragraph 5. For oral quotations, including purchase card transactions, the contracting officer shall provide a NAICS code and size standard, if requested.
- f. Each written Request for Quotations shall contain the provision AOC52.219-02, Small Business Program Representations and Certifications. See AOC Order 34-19-01, Small Business Preference Programs, paragraph 8.
- g. If the contracting officer receives only one acceptable offer from a responsible small business concern in response to a small business set-aside, the contracting officer should make an award to that small business concern. If the contracting officer receives no acceptable offers from responsible small business concerns, the set-aside is automatically withdrawn and the requirement, if still valid, may be resolicited among all types of business concerns available. However, the contracting officer shall submit AOC Form 1901, Small Business Program Review, to the Small Business Coordinator and include all relevant and pertinent information to support a withdrawal of the individual small business set-aside. Concurrence by the Small Business Coordinator is not required when no offers are received.

- h. Offers received from concerns that do not qualify as small business concerns shall be considered nonresponsive and shall be rejected. However, before rejecting an offer otherwise eligible for award because of questions concerning the size representation, an SBA determination must be obtained. See AOC Order 34-19-01, Small Business Preference Programs, paragraph 10.

**6. WITHDRAWING A SMALL BUSINESS SET-ASIDE**

- a. If, before award of an order involving a small business set-aside, the contracting officer considers that award would be detrimental to the public interest (e.g., payment of more than a fair market price), the contracting officer may request that the small business set-aside be withdrawn and the procurement solicited among all business types. However, the contracting officer shall submit AOC Form 1901, Small Business Program Review, to the Small Business Coordinator and include all relevant and pertinent information to support a withdrawal of the individual small business set-aside.
- b. If the Small Business Coordinator does not agree to a withdrawal, the matter shall be referred to the Chief Administrative Officer or his designee for resolution.
- c. All documentation relating to the withdrawal of a small business set-aside shall be maintained in the procurement file.